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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,865	04/16/2004	Edgar Hommann	34206/US	8185

7590 04/09/2009
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EXAMINER

GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

MAIL DATE	DELIVERY MODE
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04/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,865	Applicant(s) HOMMANN ET AL.	
	Examiner ANDREW M. GILBERT	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 13, 14, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 6 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply filed on 1/14/2009.
2. In the reply, the applicant amended claims 1, 8, 11, and 18. Claim 12 was cancelled.
3. Thus, claims 1-11, 13-16, 18 are pending for examination.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-5, 7-11, 13-14, 16, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Haar et al (6074360). Haar et al discloses an injection device for injecting a medicament into a body, the injection device comprising: a housing (Figs 1-9c, 11); a medicament reservoir (see e.g. 200, 28); a drive system (20) for expelling a dosage of the medicament from the reservoir; at least one capacitor (110) providing the sole electric power (110 and the embodiment of Fig 11) for powering the drive system for performing at least one injection; wherein the medicament reservoir, the drive system, and the at least one capacitor are contained within the injection device housing (handheld unit 120; Fig 11); and at least one inductive charging element (108a) coupled to the at least one capacitor within the injection device (via cable 122) and at least partially arranged at an exterior face of the housing (wherein the applicant has not

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structurally defined the housing... an external face of the housing may include the external face of an electrical socket connection on 120 that connects to the cable 112 that runs to 108a and, for instance, a DC wall connection), the at least one inductive charging element configured for being operably and removably coupled to an external charging device via the portion of the inductive charging element arranged at the exterior face of the housing (112, 108a; col 12, Ins 48-col 13, Ins 5), the external charging device comprising a structure that is complementary with said inductive charging element at the exterior face (Fig 11; col 12, Ins 48-col 13, Ins 5); wherein the at least one capacitor receives a charge from the external charging device when the external charging device is operably coupled to the portion of the at least one inductive charging element arranged at the exterior face of the injection device housing (col 12, Ins 48-col 13, Ins 5); and wherein the drive system remains operable for expelling a dosage after the external charging device has been removed from the at least one inductive charging element by discharging the charge from the at least one capacitor (col 12, Ins 48-col 13, Ins 5; col 15; and Summary); wherein a charge indicator (104; col 6-13) can be classified as a volt meter because it reads the charge across the capacitor, and detects a predetermined voltage for one injection (lights up at that time), and can be considered a memory and signal output because it shows and the voltage over time of the capacitor and is supplied with current from the voltage and also can be considered a sensing element that is part of the electronic system that senses the amount of energy in the capacitor and determines the number of injections and displays that number (in this case that number is always one); and wherein the capacitor (110) is rechargeable.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haar et al. Haar et al discloses the invention substantially as claimed except for expressly disclosing that the capacitor is made out of gold. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the capacitor as taught by Haar et al with a gold capacitor since it was well known in the art that capacitors are made out of gold material.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haar et al in view of Avarhami et al (6708060). Haar et al discloses the invention substantially as claimed except for expressly disclosing the capacitor is a duplex capacitor. Avarhami et al teaches that it is known to have a duplex capacitor (col 18, lns 19-23, col 20, lns 45-55, col 21, lns 41-49) for the purpose of modulating charge delivery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the capacitor as taught by Haar et al with the duplex capacitor as taught by Avarhami et al for the purpose of modulating charge delivery.

Allowable Subject Matter

9. Claims 6, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW M. GILBERT whose telephone number is

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(571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/
Examiner, Art Unit 3767
/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767